

Chapter 9

Assessing the Governance Modes of Indonesia's Forest Management Unit



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Abstract Discussions about forestry governance systems in Indonesia have always been an important area of policy and practice given the sector's outsized role in natural resources management. In recent years, the forest management system has been intimately linked to the concept of a Forest Management Unit (FMU), which was established to conduct scientifically sound forest management practices. FMUs were created in response to the historical failures of rule-based forest management and privatization, which resulted in the emergence of the notion of professional forestry. However, forest governance systems are once again changing as a result of the aftermath of Indonesia's Job Creation Act (a.k.a. Omnibus Law) and its derivative regulations. In this chapter, we apply a governance approach for assessing anticipated changes in the forestry sector. We understand governance as a process operationalized by actors, powers, and rules. Accordingly, we applied the lens of four governance modes in our analysis, which includes hierarchical governance, closed co-governance, open co-governance, and self-governance. FMUs assist the central government as a facilitating institution and provide a window into understanding ongoing forestry changes. Policy changes indicate that nongovernment actors are gaining increased access to permit-based forest use, thus potentially

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A. Triyanti et al. (eds.), *Environmental Governance in Indonesia*, Environment & Policy 61, https://doi.org/10.1007/978-3-031-15904-6_9

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replacing the envisioned role of FMUs as key actors at the site level. Nevertheless, although forest use is increasingly being entrusted to nongovernment actors, governance will remain hierarchical, wherein the central government serves as the dominant actor enacting regulatory mechanisms and guiding actor interactions and participation. As a result, we show that previous modes of forestry sector governance are likely to endure and deepen in the post-Omnibus era.

Keywords Forest management unit · Governance · Omnibus law

9.1 Introduction

The emerging forest sector agenda aims to transform governance modes to achieve concrete solutions to current problems. Historically, the forestry sector approached management systems from a scientific rather than a social science perspective (Larson et al., 2021). This has created persistent challenges that will continue as long as forest governance remains ignored (Maryudi et al., 2018). A governance framing helps us to understand the way potential interventions affect policies, institutions, and behaviors (Rahman et al., 2018). Such a perspective also allows us to explain the way government and nongovernment actors can collaborate to address challenging social issues in the forestry sector. Nevertheless, governance is a complex concept with many constituent parts. There are also often competing explanations for the broader determinants of governance (Arnouts et al., 2012).

In this chapter, we center our analysis around evaluating the dynamics of forest governance since the establishment of the crucial decentralizing institution of the Forest Management Unit (FMU). We extend the analysis to examine current regulatory reforms taking place under the National Workforce Development Act, popularly known as the Omnibus Law. Many observers believe that the Omnibus Law could have significant impacts on the institutions governing the forestry sector. We are also interested in extending the concept of governance models in the context of forest management. Studies on governance and FMUs are important because FMUs were established to serve as the lowest level implementing institution, at once promising improved service delivery while also accruing more benefits locally. This research thus positions governance at the center of understanding how FMUs are changing and how they might better chart out a pathway for desired improvements in the forestry sector. First, we turn to a brief history of institutional change in Indonesia's forestry sector.

9.1.1 *A Brief History of the Indonesian Forestry Sector: Toward FMU Establishment*

Immediately after obtaining independence from the Dutch colonial administration in 1945, forests came to be treated as reserves by then President Sukarno (Barr et al., 2006). When the New Order¹ came to power in the mid-1960s, the government faced significant capital shortages, which led to a dramatic escalation of policies around the development and foreign investment in the forestry sector. These policies were guided through the passing of Law 1 of 1967 concerning Foreign Investment (*Penanaman Modal Asing* or PMA) and Law 5 of 1967 over the Main Provisions of Forestry (*Ketentuan-Ketentuan Pokok Kehutanan*) (Awang, 2003; Barr et al., 2006). The government thereafter authorized Forest Concession Rights (*Hak Pengusahaan Hutan* or HPH), granting “Forest Exploitation Rights” to the private sector for up to a 20-year period. This facilitated the private sector’s dominance of forest exploitation, enacted through state-based and company-based systems that lasted between 1967 and 2001. The economic consequences of governance through market dominance gave rise to the so-called “forestry crisis,” indicative of alarming rates of deforestation (Sunderline & Resosudarmo, 1996). According to FAO and JRC (2012), forest cover decreased from 74% to 56% between the 1970s and 1990s, mainly from commercial logging activities. During that period, annual deforestation rates increased from 300,000 to about one million ha/year (FWI/GFW, 2001; Tacconi et al., 2019; World Bank, 1997). By 1997, average deforestation rates had increased to 1.6 million ha/year (FWI/GFW, 2001) (see Fig. 9.1).

Regime change with the fall of the New Order in 1998 did little to slow deforestation rates, as new drivers for deforestation began to emerge. A democratic decentralization governing framework led to local governments granting smaller scaled concession permits that caused additional spikes in deforestation rates (Barr et al., 2006).

In 1999, the enactment of Law 41 on Forestry reaffirmed the central government’s role as the main actor in forest governance (Peluso, 2007). Even in the context of decentralization of Indonesia’s institutions, Law 41 of 1999 vested limited authority to local governments (Resosudarmo, 2004). Furthermore, the new forestry law emphasized a state-control paradigm and a management system based on centralized regulations and bureaucracy (Moeliono et al., 2008). The Forest Concession Rights were then revoked and replaced with a Timber Forest Concession Permit (*Izin Usaha Pengusahaan Hutan Kayu* or IUPHK). Under the HPH concession right, the owner has the right to control the forest with the full authority vested by the government. This is not the case with IUPHK, however, in which the private sector applies for a permit. This is equivalent to a business license and no longer functions as a right, shaping new forms of patron–client relationships. As a result of this transformation, forest governance is now dominated by a rules-based

¹ The New Order Government came to power through a “silent coup” in 1966, and its orchestrator Soeharto remained in power as president for the next 32 years until his ouster in 1998.

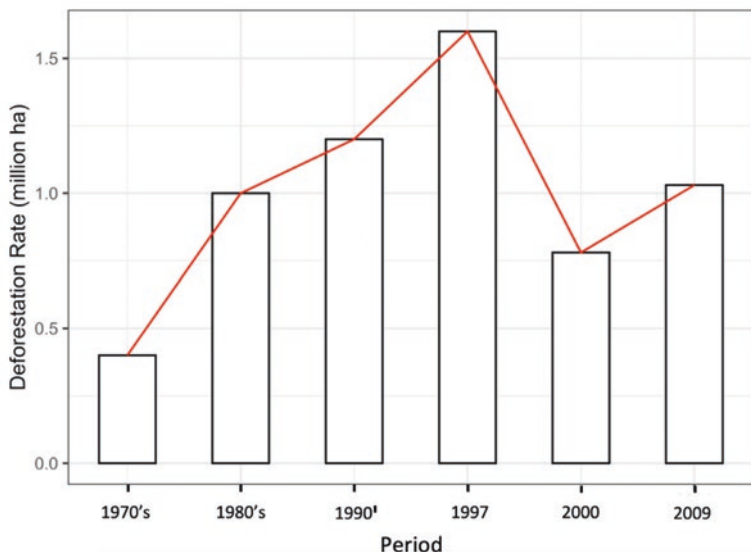


Fig. 9.1 Estimated average deforestation rate in Indonesia from 1970 to 2009

bureaucracy. However, this shift in dominance has had no impact on the state of forest governance. If private dominance as a thesis fails to produce the desired forest governance, and the antithesis of bureaucratic domination has no significant effect on governance, the concept of professional forestry is considered a synthesis of dissatisfaction with market forces and bureaucracy. The existence of a Forest Management Unit (FMU or *Kesatuan Pengelolaan Hutan*) emphasizes the concept of professional forestry.

Indonesia's FMUs were established in 2007 in response to Government Regulation (GR) number 6, which sought to address forest governance, plan preparation, and forest utilization. FMU establishment at that time was motivated by a number of factors, including the lack of an institution that oversees forest management on a site-by-site basis and the government's desire to ensure sustainability over forests. Additionally, proponents hoped FMUs could serve as a catalyst for improving historically poor forest management approaches in various regions (Hernowo & Ekawati, 2014; Moeliono et al., 2008). A Ministry of Forestry (2012) report explains that the overall objective of the FMU policy unit is to provide certainty about (1) forest management work areas, (2) management responsibilities, and (3) forest management planning, which is a prerequisite for sustainability. The government's desire to establish a site-by-site institution was motivated by the fact that the rates of deforestation at that time remained high, especially outside of Java.

The failure of market-based forest development models and the dominance of the bureaucracy raised the profile of FMUs as a site-level institution able to manage forests professionally. FMUs are designed to be able to manage forests based on

facts and science. However, since its establishment in 2007, FMUs encountered many obstacles to these goals. Originally placed under district-level authority, FMUs were withdrawn to the provincial scale due to a tug of war for power that unfolded in the preparation of Law 23 of 2014 concerning Regional Government (Putro & Nawir, 2018). Some regions believe that the establishment of FMUs would increase the local bureaucracy's complexity. Indeed, as a result of recentralization, forest management approaches have become further fragmented between central and local governments (Moeliono et al., 2008). Some analysis shows that the institutional growth of FMUs did not necessarily result in the implementation of an effective management system; instead, it resulted in overlapping tasks and functions (Pratama, 2019). The FMU organization continues to face challenges throughout its development. For example, not all local governments support FMUs as an institution because their organizational activities require local budgets (Soedomo, 2017). The majority of local governments still see that duties and functions between the forestry agency and FMUs differed only slightly (Hernowo & Ekawati, 2014).

In 2020, the future of FMUs and modes of forestry governance face renewed structural change. President Jokowi's administration issued Act 11 of 2020 regarding Employment Creation (popularly known as the *Omnibus Law*). The Omnibus Law prioritizes debureaucratization and deregulation. These policy changes are aimed at reducing bureaucratic inertia, especially for forest management. The government has since issued GR 23 of 2021 concerning Forestry Implementation. This Government Regulation regulates the role and function of FMUs and reviews the relevance of the institution. In light of these changes, the questions that drive this chapter are: Do FMUs operate according to the initial concept of an independent organization responsible for on-site forest governance? Furthermore, amid ongoing policy changes in the forestry sector, what do these changes tell us about different modes of governance? This chapter will address these questions by discussing the current status and role of FMUs as a governing institution. We apply one case study for analytical grounding by examining the development of the Yogyakarta FMU.

This chapter proceeds as follows. Section 9.2 describes various concepts of establishing an FMU. The concept and function of FMUs are determined in accordance with the evolving regulations. The third section discusses changing governance structures onset by the Omnibus Law. The fourth section discusses actors in forest governance. The concluding section reflects on the implications of selected governance modes for forest management at the subnational level.

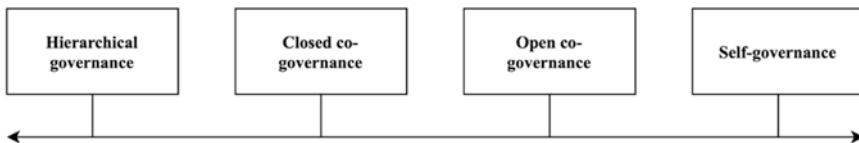


Fig. 9.2 Four governance modes continuum. (Based on Arnouts et al. (2012) and Kooiman (2003))

9.2 Governance and Operationalization Mode

Self-governance is a mode of governance that refers to the capacity of people to govern themselves autonomously. In addition, this mode of operation is consistent with the trend of public intervention through deregulation or privatization (Kooiman, 2003). Co-governance is a mode of governance that emphasizes collaboration and coordination. This mode of governance can be described as a horizontal mode, in which actors collaborate without a dominating central government (Kooiman, 2003). However, this mode is considered insufficient to adequately explain how government and nongovernment actors collaborate. Consequently, this mode is classified as either a closed co-governance or open co-governance system. Closed co-governance is defined as structured governance regardless of the presence of nongovernmental actors. Open shared governance is defined as a more autonomous and adaptable mode of governance based on established networks of actors (Arnouts et al., 2012). Finally, hierarchical governance is synonymous with top-down governance. In addition, this mode is a process in which the dominant actor exercises control over the subordinate actor (Kooiman, 2003).

Borrowing from Kooiman's (2003) governance mode modified by Arnouts et al. (2012), Fig. 9.2 presents its constituent parts.

Governance is essentially about determining the extent to which government and nongovernment actors are involved in governing. The term "mode of government" refers to the various ways processes of governing are carried out. A governance mode is referred to as a set of governance arrangements, with policy discourse serving as the substance. The operationalization of the concept of governance in this chapter takes advantage of the characteristics of actors, powers, and rules (Arnouts et al., 2012) (see Fig. 9.3). On the actor dimension, we observe the formation of coalitions between actors (Lange et al., 2013). We consider both governmental and nongovernmental actors when examining the dimensions and roles of actors. In the power dimension, we examine the resources that are owned or can be mobilized by actors, such as FMUs, e.g., through their legal means or access. The rule dimension is focused on the rules governing actors' interaction. Interaction rule is a type of formal procedure that determines how actors relate to one another. This dimension examines the rules governing which actors participate in government and how the responsibilities of these actors are divided.

9.3 Concept of Forest Management Unit Formation

When Law Number 5 concerning Basic Forestry Provisions was promulgated in 1967, the concept of an FMU had already existed. However, the mandate for establishing FMUs was only clearly defined in Law 41 of 1999 on Forestry, which included implementing regulations under the Law including GR 6 of 2007 (Hernowo & Ekawati, 2014).

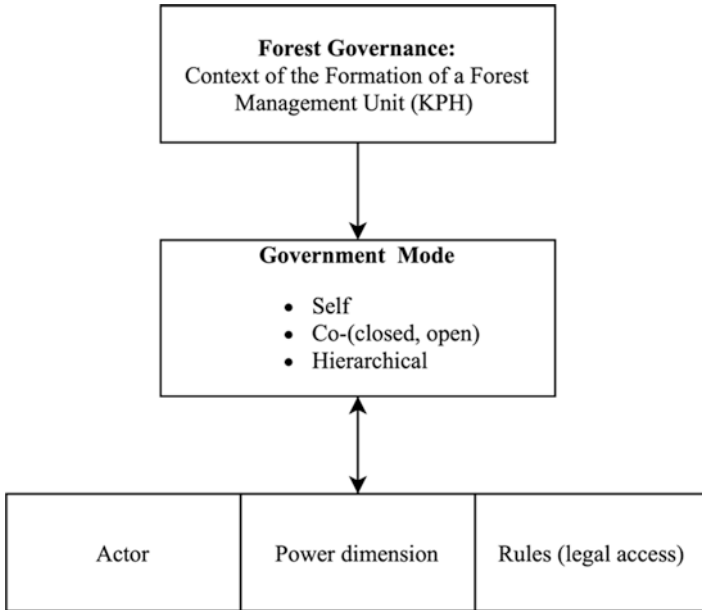


Fig. 9.3 Governance mode analysis scheme. (Based on Arnouts et al. (2012))

The FMU concept guides sustainable forest management over a given area based on the main function and design of the forest. Due to the territorial element of this concept, all state forest areas in Indonesia are anticipated to be divided into FMU areas (Maryudi, 2016).

FMUs are established for various rational reasons. First, the government refers to areas of deforestation and degradation. Nearly 55.93 million hectares (46.5%) of the 120.3 million hectares of total state forest land are not managed intensively (Kartodihardjo et al., 2011). Among these areas, local governments control 30 million hectares of forest. Without forest management and conflict resolution, a number of incentives for natural forest conservation and forest and land rehabilitation will be lost (Hernowo & Ekawati, 2014). The lack of forestry development institutions is due to limited local government capacity (Setyarso et al., 2014). This is also related to the fragility of central-regional ties (Julijanti et al., 2014; Purnomo, 2014).

FMU management begins with the development of a long-term FMU strategy. The plan is then coordinated with the central government, provincial government, and district government. Other stakeholders, such as government agencies, permit holders (if any), forest communities, nongovernmental organizations (NGOs), and academics, should be involved in the preparation of the work plan (Kartodihardjo et al., 2011). That is, the existing concept indicates an open governance model in the work plan activities. FMUs can conceptually collaborate with communities that receive permits, in which FMUs would be tasked with clearly and carefully identifying community needs over the benefits of forest resources (Kartodihardjo et al., 2011). Following the passing of the Omnibus Law, the FMU concept is incorporated

in GR 23 of 2021² concerning Forestry Implementation and Ministry of Forestry (MoFor) Regulation 8 of 2021 on Environment and Forestry.

9.4 Changes in the Role of FMUs After the Omnibus Law

Many FMU scholars and practitioners believe that the current regulations are far from fulfilling the intended FMU concept. Various issues regarding changes in the authority of FMUs include, first and foremost, the duties and functions of FMUs as facilitators of forest management at the site level in accordance with Article 123.³ This role calls into question the ability of FMUs to continue playing a strategic role in ensuring sustainable resource management. Second, the current regulation limits forest uses for Forest Utilization Permits only (*Perizinan Berusaha Pemanfaatan Hutan* or PBPH) or social forestry management (*Pengelolaan Perhutanan Sosial*) with the approval of the Minister. The FMU is not registered as a party capable of utilizing the forest. Third, FMUs are no longer authorized to carry out forest utilization business activities, either jointly with partners in a business permit scheme or through forestry partnerships, as referred to in Article 244.⁴ As a result, the original target for transforming FMUs as a Regional Public Service Agency (*Badan Layanan Umum Daerah* or BLUD) becomes obsolete.

We observed that there is no significant shift in authority over FMUs. Indeed, the growing narrative about FMUs is that they are currently fulfilling only an administrative task, as defined as a facilitator in Article 123. However, closer examination of the current regulations reveals that FMUs remain the organization responsible for implementing the forest management provisions of Article 40⁵ (see Table 9.1). It shows the FMU's autonomy and professionalism as a knowledge-based institution. However, the central government's framing mainly focuses on the role of FMUs in article 123, despite the existence of articles 39 and 40. FMUs were initially designed to be autonomous and not tied to the central government bureaucracy. Article 119 confirms and follows Article 40, which requires FMUs to develop long-term forest management plans based on forest research, not rules. For example, forest planning activities, forest organization, forest activity execution, and forest control and supervision are all examples of forest activities.


²GR 23 of 2021 has revoked and replaced GR 6 of 2007.

³According to Article 123 of GR 23 of 2021, the FMU organization is tasked with the responsibility of facilitating the implementation of policies across the forestry sector. Previously enacted government regulations did not have a facilitator role.

⁴Forest utilization activities are carried out under the Forestry Partnership scheme in accordance with an agreement between the management holder and a State-Owned Enterprise or a Forest Utilization Permit with the local community.

⁵According to Article 40 of GR 23 of 2021, the FMU organization is responsible for forest management implementation, including management planning, organization, implementation, control, and monitoring.

Table 9.1 Authority of FMUs by regulation

GR 6 of 2007	Law 23 of 2014	GR 23 of 2021
1. Implement forest management 2. Elaborate national, provincial, and district/city forestry policies in the forestry sector to be implemented 3. Implement forest management activities in their territory, starting from planning, organizing, implementing, monitoring, and controlling 4. Carry out monitoring and assessment of the implementation of forest management activities in their areas 5. Create investment opportunities to support the achievement of forest management objectives	1. Forest inventory management 2. Implementation of forest area gazettement 3. Implementation of forest area management 4. Implementation of the establishment of forest management areas 5. Implementation of the establishment of forest management areas 6. Implementation of the establishment of forest management areas 7. Implementation of the national forestry plan 8. Forest management 9. Implementation of forest management plans 10. Implementation of forest use and use of forest areas 11. Forest rehabilitation and reclamation 12. Implementation of forest protection 13. Forest product processing and administration  14. Implemented by FMUs as a facilitating role on the basis of central government orders	1. Strengthening of the national forest management system and provincial government (Article 39) 2. Responsibility for the implementation of forest management (Article 40) 3. Preparation of long-term and short-term forest management plans (Article 119) 4. Coordination of forest management planning with business permit holders, holders of approvals for the use and release of forest areas, and managers of social forestry (Article 123) 5. Facilitation of policy implementation in the fields of environment and forestry (Article 123) 6. Facilitation in supporting social forestry (Article 123)

We interpret Article 123 as stipulating FMUs to act as a facilitating role, which establishes a directive from the central government to the FMUs, particularly given the division of power stated in Law 23 of 2014 concerning Regional Governance. This is clearly shown in Table 9.1 as it says that the central government is the organizer of sub-planning efforts concerning forests and forest management in the government affairs section. Accordingly, the FMU is tasked with an assisting role (*tugas pembantuan*). The role of FMUs following the Omnibus Law, in our opinion, has not changed significantly from GR 6 of 2007. According to Article 9 of GR 6 of 2007, FMUs have the same duties and functions as FMUs based on GR 23 of 2021 when it relates to forest management. Article 123 only provides additional tasks to FMUs that are co-administered. Currently, the central government frames them based on Article 123 only, even though FMUs are also defined in Articles 39 and 40.

9.5 Actors in Forest Governance

The perspective of actors who have significant authority in forest management can be seen from local FMU operations. In Yogyakarta Province, state forest governance is overseen by key actors, which are the Provincial and District Offices. Gunung Kidul District, however, manages community forests within its boundaries and has done so for a long time. The success of the social forestry program through the Community Forest designation (*Hutan Kemasyarakatan* or HKM) is the result of the district government's commitment to fostering and facilitating the establishment and support of forest farmer groups. However, since the enactment of Law 23 of 2014, the configuration of actors has shifted. This is because the forestry sector is now exclusively managed by the central and provincial governments. The implication is that the District Forestry Agency's role has been abolished and all authority is handed over to the province. In an interview with the former head of the District Forestry Agency of Gunung Kidul, we were told:

The impacts of the issuance of Law 23 of 2014 are that the District Forestry Agency of Gunung Kidul – which provided assistance to community forests, forest parks, and farmer groups – were dissolved, and all of its authority was delegated to the Provincial Forestry Agency. The delegation of affairs and authority was only carried out in 2017 where FMU and the District Forestry Agency of Yogyakarta received around 80 structural and functional employees.

Since its establishment in 2011, FMUs have grown to become an important player in state forest management in the Yogyakarta region. Although the regional technical implementation unit (*Unit Pelaksana Teknis Daerah* or UPTD) is under the Provincial Forestry Agency, the existence of FMUs is important because they also function as a substitute for the Agency. FMUs have emerged as a new actor in local forest governance in collaboration with the Provincial Forestry Agency. However, the position and role of the FMUs are again being questioned due to the Omnibus Law. Their responsibility for the territories they manage through forest management is not clear in GR 23 of 2021, nor are they yet to be explained in subsequent implementing regulations. For example, in Article 127, it is stated that forest utilization activities are carried out by Forest Utilization Permits and/or the management of social forestry, not by FMUs. Forest Utilization Permits and Social Forestry Management are the responsibility of the Minister of Environment and Forestry who acts as the licensor. While each Forest Utilization Permit holder is required to prepare a work plan in accordance with the FMU Long-Term Management Plan (*Rencana Pengelolaan Jangka Panjang* or RPJP), we see that the authority of FMUs in their own areas is being questioned due to these other mandates. Meanwhile, many scholars continue to argue that FMUs should be encouraged to develop into independent business units that have creative space in forest utilization activities because they would be managed by individuals with site-specific expertise (Kartodihardjo et al., 2011; Maryudi, 2016; Pratama et al., 2021). FMUs are no longer authorized to conduct business activities with partners within a forestry

partnership scheme. Social forestry managers can carry out utilization activities independently or in collaboration with other actors, but not with FMUs.

In comparison to FMUs, nongovernment actors that obtain Forest Utilization Permits or social forestry managing entities have a role in forest utilization under current regulations. According to article 40, FMUs should be a unit that ensures the implementation of governance in its jurisdiction. Furthermore, as mentioned in Article 123, all forest management activities must be coordinated with an FMU. As a result, the function of FMU in forest governance must be reviewed, as it has remained unchanged in comparison to prior regulations.

9.6 Dimensions of Power

Risks of perverse incentives have remained in place although seemingly numerous regulatory changes have taken place. For instance, since the issuance of permits was taken back by the authority of the Ministry of Environment and Forestry, the governing authorities at the subnational level markedly diminished. Without licensing powers, provincial forestry agencies that host FMUs may be disinterested in engaging with the additional bureaucratic burden.

FMUs can be viewed as the central government's effort to secure state forests across Indonesia. FMUs must be seen in the context of power as a component of power relations that cannot be separated from the control of the central government, regardless of regional status. According to Sahide et al. (2016), the real struggle of FMUs and community forestry policies indicate a power struggle among the national, provincial, and district bureaucracies. The history of centralized forest governance in Indonesia has impacted the demand for decentralization of forest policy. However, when regions gained autonomy, several strategies were implemented to restrict decentralization of forest resource management, thus maintaining central control.

Currently, the overall authority of FMUs is being questioned and challenged once again, particularly regarding forest governance at the site level. FMUs, which recognize their institutional role as a facilitator, are under the control of the central government through co-administration arrangements. FMUs do not mobilize forest resources because forest use is delegated to nongovernment actors who are granted permits. On the one hand, regulatory tools show that FMUs are hierarchical in nature because they carry out forest management tasks assigned by the central government but are responsible for autonomous forest management at other times. FMUs are directly responsible to the central government. The responsibilities assigned to FMUs are also unclear as there are nongovernmental actors who are able to directly utilize the forest without the assistance of FMUs. Overall, this points to the undermining and marginalization of the role and mandate of the FMU.

We find that current government efforts to reintroduce rules-based forest governance are undertaken by providing forest use permit holders with management permit instruments. Meanwhile, market-based governance is implemented through

business licenses managed by actors such as individuals, cooperatives, State-Owned Enterprises (*Badan Usaha Milik Negara* or BUMN), Regional-Owned Enterprises (*Badan Usaha Milik Daerah* or BUMD), and Private-Owned Enterprises. The observed model of governance is still dominated by government actors through the formation of a hierarchical bureaucratic system. FMUs thus cannot be discussed separately from central government control. FMUs do not appear to be autonomous organizations with territorial responsibilities and jurisdiction. Collaboration in governance is demonstrated by the presence of nongovernment actors such as community groups and private actors. However, we find that horizontal governance by collaborative cooperation has not yet occurred. The actors gain access to permit-based management in accordance with the Minister's standards and guidelines for sustainable forest management.

9.7 Conclusion

Market-based regulations and governance modes have failed to improve forest conditions and have resulted in widespread deforestation in Indonesia. FMUs, established in 2007, aimed at reshaping the governance landscape. In this chapter, FMUs provided an avenue for synthesizing the failures of forest governance over time. Designed to be an autonomous, science-based organization, FMUs have been undermined by their unclear authority and standing.

As of now, the role of FMUs under GR 23 of 2021 is still open to interpretation. Consequently, there are some FMUs that continue to carve out the semblance of their intended functionality. More broadly, however, the framing as a facilitator that emerged from the forestry ministry was undermined through the tight control that the central government redefined for itself. In addition, nongovernment actors, such as social forestry community groups and Forest Utilization Permits, play a growing role in forest management and bypass FMUs because they are only legally responsible to the Minister.

We conclude that forest governance continues to be based on permit-based forest use management, with nongovernmental actors that have expanded to include community as well as private actors. The involvement of nongovernment actors has not demonstrated an open governance model, to which FMUs were envisioned to facilitate. This is because collaboration is still bound by rigid and nonautonomous regulatory dimensions so that a horizontal form of government does not materialize. It also shows how the current governance structure operates, which is hierarchical and governed by top-down mandates and relationships. To achieve the envisioned reforms of establishing FMUs, governance cannot be solely based on rules and markets in the future. Instead, it must be balanced with science-based governance, in which FMUs would play a critical role.

Eventually, the power balance between FMUs and Forestry Agency authority may be rectified. Doing so would require providing FMUs with sufficient creative space to develop long-term and short-term plans through complementary

relationships with the Forestry Agency. Accordingly, FMUs should be encouraged to develop into autonomous institutions that also serve local interests.

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